

§ 941.600

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(f) *Failure to take corrective action.* In cases where HUD has ordered corrective action and the PHA has failed to take the required actions within a reasonable time, as specified by HUD, HUD may take one or more of the following steps:

(1) Terminate future draw downs and/or advances to the PHA. In such case, the amount of advances made to the PHA shall be repaid by the PHA from any funds or assets available for that purpose;

(2) Require alternative management of development functions by an entity other than the PHA;

(3) Cancel the fund reservation if the PHA fails to start (begin construction or rehabilitation), or complete (acquisition) within 30 months from the date of the fund reservation pursuant to section 5(k) of the Act;

(4) Recapture for good cause any grant amounts previously provided to a PHA, based upon a determination that the PHA has failed to comply with the requirements of the development program.

(g) *Right to appeal.* Before taking any of the actions described in paragraph (f) of this section, HUD shall notify the PHA and give it an opportunity, within a prescribed period of time, to present any arguments or additional facts and data concerning the proposed action.

[61 FR 38021, July 22, 1996]

Subpart F—Public/Private Partnerships for the Mixed Finance Development of Public Housing Units

SOURCE: 61 FR 19714, May 2, 1996, unless otherwise noted.

§ 941.600 Purpose.

(a)(1) This subpart authorizes a PHA to use a combination of private financing and public housing development funds to develop public housing units, and is designed to enable PHAs and their partners to structure transactions that make use of private and/or public sources of financing. Many potential scenarios for ownership and transaction structures exist, ranging from the PHA or its partner(s) holding no ownership interest, a partial owner-

ship interest, or 100 percent of the ownership interest of the public housing units that are to be developed. PHAs and/or their partner(s) may choose to enter into a partnership or other contractual arrangement with a third-party entity for the mixed-finance development and/or ownership of public housing units. If this entity has primary responsibility along with the PHA for the development of these units, it is referred to for purposes of this subpart as the PHA's "partner." The entity that ultimately owns the public housing units, whether or not the PHA retains an ownership interest, is referred to as the "owner entity." The resulting "mixed-finance" developments may consist of 100 percent public housing units, or may consist of public housing and non-public housing units.

(2) This subpart sets forth the requirements that must be met by the PHA and its partner(s) before HUD can approve a proposal for mixed-finance development, and also sets forth continuing requirements that apply throughout the development and operation of the development by the owner entity.

(b) Under this subpart, public housing units that are built in a mixed-finance development must be comparable in size, location, external appearance, and distribution to the non-public housing units within the development.

§ 941.602 Applicability of other requirements.

(a) *Relationship of this subpart to other requirements in 24 CFR part 941.* The requirements contained in this subpart apply only to the development of public housing units using mixed-finance development methods under this subpart and to the operation of public housing units that are owned, or that will be owned, by an owner entity under this subpart. Other requirements for the development of public housing, as set forth in subparts A through E of this part, shall not apply to the development of public housing units pursuant to this subpart, except as may be required by HUD. Applicable requirements include, but shall not be limited to, the following:

(1) Section 941.103 (“Definitions”) (definitions of the following terms only shall apply to this subpart: “Annual Contributions Contract (ACC),” “cooperation agreement,” “design documents,” “reformulation,” and “Total Development Cost (TDC).”

(2) Section 941.201 (“PHA eligibility”) (except that specific requirements governing the cooperation agreement, as set forth in §941.201(c), shall be determined in accordance with this subpart);

(3) Section 941.202 (“Site and neighborhood standards”);

(4) Section 941.203 (“Design and construction standards”);

(5) Section 941.205 (“PHA contracts”) (except that the reference to “development related contracts entered into by the PHA” shall be construed to mean “development related contracts entered into by the PHA or the owner entity”);

(6) Section 941.207 (“Relocation and acquisition”);

(7) Section 941.208 (“Other Federal requirements”);

(8) Section 941.209 (“Audit”);

(9) Section 941.306 (“Maximum development cost”);

(10) Section 941.402 (“Project design and construction”);

(11) Section 941.403 (“Acceptance of work and contract settlement”);

(12) Section 941.404 (“Completion of development”); and

(13) Section 941.501 (“HUD review of PHA performance; sanctions”).

(b) *Procedure in the event of a conflict between requirements.* In the event of a conflict between a requirement contained in this subpart and an applicable requirement set forth in subparts A through E of this part, the requirements of this subpart shall apply, unless HUD otherwise so determines in writing.

(c) *HUD approval.* For purposes of this subpart only, any action or approval that is required to be taken or provided by HUD or by the HUD field office, pursuant to a requirement set forth in subparts A through F of this part, shall be construed to mean that HUD Headquarters shall take such action or provide such approval, unless the field office is authorized in writing

by Headquarters to carry out a specific function under this subpart.

(d) *Applicability of requirements pursuant to 24 CFR part 85.* The requirements of 24 CFR part 85 are applicable to this subpart, subject to the following two provisos:

(1) A PHA may select a partner using competitive proposal procedures for qualifications-based procurement (subject to negotiation of fair and reasonable compensation, including TDC and other applicable cost limitations);

(2) An owner entity (which, as a private entity, would normally not be subject to part 24 CFR part 85) shall be required to comply with 24 CFR part 85 if HUD determines that the PHA or PHA instrumentality exercises significant functions within the owner entity with respect to managing the development of the proposed units. HUD may, on a case-by-case basis, exempt such an owner entity from the need to comply with 24 CFR part 85 if it determines that the owner entity has developed an acceptable alternative procurement plan.

[61 FR 19714, May 2, 1996, as amended at 61 FR 38022, July 22, 1996]

§ 941.604 Definitions.

In addition to the definitions set forth in §941.602(a)(1), the following definitions are applicable to this subpart:

Development. A housing facility consisting of public housing units, and that may also consist of non-public housing units, that has been developed, or that will be developed, using mixed-finance strategies under this subpart.

Mixed-finance. The combined use of publicly and privately financed sources of funds for the development of public housing units under this subpart.

Owner Entity. The entity that will own the public housing units, if the PHA holds less than one hundred percent of the ownership interest; or the lessee under a ground lease from the PHA. The owner entity may be a partnership that includes the PHA.

Participating party. Any person, firm, corporation, or public or private entity that:

(1) Agrees to provide financial or other resources to carry out the approved proposal, or specified activities contained in the proposal; or

(2) Otherwise participates in the development and/or operation of the public housing units and will receive funds derived from HUD with respect to such participation. The term “participating party” includes an owner entity or partner.

Partner. A third party entity with whom the PHA has entered into a partnership or other contractual arrangement to provide for the mixed-finance development of public housing units pursuant to this subpart, and that has primary responsibility with the PHA for the development of the housing units under the terms of the approved proposal.

Proposal. For purposes of this subpart only, the term “proposal” means a detailed PHA submission of information under § 941.606.

Public Housing Agency (PHA). Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of low-income housing under this part. For purposes of this subpart, the term “PHA” also encompasses any agency or instrumentality of the PHA.

Public housing unit. A unit that is eligible to receive operating subsidy pursuant to section 9 of the Act (42 U.S.C. 1437g).

§ 941.606 Proposal.

Each proposal shall be prepared in the form prescribed by HUD and shall include some or all of the following documentation, as deemed necessary by HUD. In determining the amount of information to be submitted by the PHA under this section, HUD shall consider whether the documentation is required for HUD to carry out mandatory statutory or executive order reviews, the quality of the PHA’s past performance in implementing development projects under this part, and the PHA’s demonstrated administrative capability, as demonstrated by its overall score on the PHMAP. The proposal includes:

(a) *Activities; relationship of participating parties.* An identification of the participating parties and a description of the activities to be undertaken by each of the participating parties and the PHA, and the legal and business relationships between the PHA and each of the participating parties.

(b) *Financing.* A detailed description of all financing (including public housing development funds) necessary for the implementation of the proposal, specifying the sources (with respect to each of the proposed categorical uses of all such financing), together with a ten-year operating pro forma for the development (including all underlying assumptions). In addition, the PHA may be required to submit to HUD, for such review and approval as HUD deems necessary, all documents (including applications for financing) relating to the financing of the proposal, including, but not limited to, any loan agreements, notes, mortgages or deeds of trust, use restrictions, operating pro formas relating to the viability of the development, and other agreements or documents pertaining to the financing of the proposal.

(c) *Methodology.* If the PHA proposes to provide public housing operating subsidy for the public housing units, it must submit a methodology acceptable to HUD for the distribution of a portion of its operating subsidy to such units;

(d) *Development description.* A description of the housing, including the number and type (with bedroom count) of public housing units and, if applicable, the number and type of non-public housing units (with bedroom count) to be developed; schematic drawings and designs of the proposed building and unit plans; outline specifications; and the types and amounts of non-dwelling space to be provided.

(e) *Site information.* An identification and description of the proposed site, site plan, and neighborhood.

(f) *Market analysis.* An analysis of the projected market for the proposed development.

(g) *Development construction cost estimate.* A preliminary development construction cost estimate based on the schematic drawings and outline specifications and current construction

costs prevailing in the area. In addition, a copy of the PHA development schedule, including the architect or contractor estimate of the time required to complete each major development stage.

(h) *Facilities.* A statement addressing the adequacy of existing or proposed facilities and services for the prospective occupants of the development.

(i) *Relocation.* Information concerning any displacement of site occupants, including identification of each displacee, the distribution plan for notices, and the anticipated cost and source of funding for relocation benefits.

(j) *Operating feasibility.* A demonstration of the operating feasibility of the development, which shall be accomplished by the PHA's showing that the estimated operating expenses of the development will not exceed its estimated operating income.

(k) *Life cycle analysis.* For new construction and substantial rehabilitation, the criteria to be used in equipping the proposed development with heating and cooling systems, which shall include a life-cycle cost analysis of the installation, maintenance and operating costs of such systems pursuant to section 13 of the Act (42 U.S.C. 1437k).

(l) *Section 213 clearance.* To expedite processing of the proposal, a PHA may solicit, on behalf of HUD, comments under section 213 (24 CFR part 791, subpart C) from the chief executive officer (CEO) (or his or her designee) of the unit of general local government. In such case, the solicitation letter must state that comments should be sent directly to HUD within 30 calendar days of HUD's estimated date of receipt of the PHA's proposal. The local government's response must state that the comments are to be considered its only response under 24 CFR part 791, subpart C. A copy of the solicitation letter must be included in the PHA's proposal.

(m) *New construction.* If a proposal involves new construction, the PHA must comply with section 6(h) of the Act (42 U.S.C. 1437d). This may be accomplished by the PHA's submission of a comparison of the cost of new construction in the neighborhood where

the housing is proposed to be constructed and the cost of acquisition of existing housing (with or without rehabilitation) in the same neighborhood (including estimated costs of lead-based paint activities). Alternatively, the PHA may submit a certification, accompanied by supporting documentation, that there is insufficient existing housing in the neighborhood to develop public housing through acquisition.

(n)(1) *Certifications and assurances.* The PHA shall submit, as part of its proposal, certifications and assurances warranting that it:

(i) Has the legal authority under State and local law to develop public housing units through the establishment or selection of an owner entity, and to enter into all agreements and provide all assurances required under this subpart. In addition, the PHA shall warrant that it has the legal authority necessary to enter into any proposed partnership and to fulfill its obligations as a partner thereunder, and that it has obtained all necessary approvals for this purpose;

(ii) Will use an open and competitive process to select the partner and/or the owner entity and shall ensure that there is no conflict of interest involved in the PHA's selection of the partner and/or owner entity to develop and operate the proposed public housing units. In addition, the PHA shall ensure that:

(A) Any selected partner and/or owner entity complies with all applicable State and local procurement and conflict of interest requirements with respect to its selection of entities to assist in the development, and uses a competitive process consistent with the requirements set forth in this subpart; and

(B) If the partner and/or owner entity (or any other entity with an identity of interests with such parties) wants to serve as the general contractor for the project or development, it may award itself the construction contract only if it can demonstrate to HUD's satisfaction that its bid is the lowest bid submitted in response to a public request for bids;

(iii) Will be responsible to HUD for ensuring that the public housing units

are developed and operated in accordance with all applicable public housing requirements, including the ACC, and all pertinent statutory, regulatory, and executive order requirements, as those requirements may be amended from time to time. The PHA must also warrant that it will provide for a mechanism to assure, to HUD's satisfaction, that the public housing units will remain available for use by low-income families for the maximum period required by law. In addition, the PHA must warrant that any agreement providing for the management of the public housing units by an entity other than the PHA shall require that the units be operated in accordance with all applicable requirements under this subpart for the full term of any low-income use restrictions.

(2) The PHA shall submit a certification of previous participation in accordance with procedures set forth in 24 CFR part 200, subpart H, and shall ensure that a similar certification is submitted to HUD by the participating parties.

[61 FR 19714, May 2, 1996, as amended at 64 FR 50228, Sept. 15, 1999]

EFFECTIVE DATE NOTE: At 61 FR 19715, May 2, 1996, § 941.606 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 941.608 Technical processing and approval.

(a) *Initial screening.* HUD shall perform an initial screening to determine that all documentation required as part of the proposal under § 941.606 has been submitted. HUD will advise the PHA of any deficiencies in the proposal and indicate that additional information will be accepted if it is received by a specified date.

(b) *Technical processing.* Upon determining that a proposal is acceptable for technical processing, HUD will evaluate the proposal to determine:

(1) Whether the PHA has the legal authority necessary to develop public housing units through the establishment of an owner entity and the use of mixed-finance strategies in accordance with this subpart;

(2) Whether the proposed sources and uses of funds set forth in the proposal are eligible and reasonable, and whether HUD's preliminary assessment of the financing and other documentation establishes to HUD's satisfaction that the mixed-finance development is viable and is structured so as to adequately protect the Federal investment of funds in the development. For this purpose, HUD will consider (among other factors) the PHA's proposed methodology for allocating operating subsidies on behalf of the public housing units; the projected revenues to be generated by any non-public housing units in a mixed-finance development; and the 10-year operating pro forma and other information contained in the proposal;

(3) If applicable, whether the public housing units in the proposed development will be comparable in size, location, external appearance and distribution within the development to the non-public housing units;

(4) If public housing development funds are to be used to pay for more than the pro rata cost of common area improvements, whether the proposal ensures that:

(i) On a per unit basis (taking into consideration the number of public housing units for which funds have been reserved) the PHA will not exceed TDC limits; and

(ii) Any common area improvements will benefit all residents of the development;

(5) Whether the proposal complies with all program requirements including, if applicable, any comments received from the unit of general local government pursuant to section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439) (see 24 CFR part 791, subpart C); and

(6) Whether the proposal is approvable following completion by HUD of an environmental review in accordance with the requirements of 24 CFR part 50.

(c) *Proposal approval.* HUD shall send a notification letter to the PHA stating that the proposal has been approved or disapproved. For approved proposals, the letter shall indicate the approved total development cost of the

public housing units in the development. HUD will also send to the PHA for execution an ACC amendment and/or a grant agreement. If the PHA has already executed a front-end ACC amendment, HUD will send to the PHA for execution a special ACC amendment for the mixed-finance development (and/or a grant agreement). The PHA shall execute these documents and return them to HUD for execution.

§ 941.610 Evidentiary materials and other documents.

(a) *Submission of documents.* As a condition of the release of grant funds under § 941.612, the PHA shall submit to HUD, within the timeframe prescribed by HUD, evidentiary materials and other documentation, as more fully set forth in the special mixed-finance amendment to the ACC (and/or grant agreement). Such materials and documentation shall include, but shall not be limited to:

(1) A copy of executed development-related contracts entered into by the PHA or owner entity with respect to the development, and the PHA-executed ACC amendment or special mixed-finance amendment to the ACC (and/or grant agreement);

(2) Agreements that are necessary to implement the proposal and to ensure that all requirements of this subpart are satisfied. Such agreements must be submitted to HUD for review and approval and shall include, but shall not be limited to:

(i) A deed restriction, covenant running with the land, ground lease, or other arrangement of public record, that will assure to HUD's satisfaction that the public housing units will be available for use by eligible low-income families in accordance with all applicable public housing requirements for the maximum period required by law;

(ii) A regulatory or operating agreement between the PHA and the owner entity that provides binding assurances that the operation of the public housing units will be in accordance with all applicable public housing requirements;

(iii) An agreement between the PHA and the owner entity with respect to the provision of operating subsidy by

the PHA in accordance with this subpart;

(iv) A partnership agreement, development agreement, or other agreement entered into between the PHA and its partner, or any other participating party, that establishes the relationships between the parties with respect to the implementation of the proposal, including all rights and liabilities (financial and otherwise) of the parties, a development schedule, and the respective commitments of the parties with respect to the development of the public housing units. For developments involving public and non-public housing units only, the PHA shall also provide for an allocation with the owner entity of expenses and risks (e.g., fire, exhaustion of, or failure to receive, syndication funds, etc.) associated with the development and operation of the development. The allocation of expenses and risks shall be based upon a ratio that reflects the proposed bedroom mix of the public housing units as compared to the bedroom mix and unit count of the non-public housing units in the development, or as otherwise approved by HUD;

(v) Any agreement relating to the management of the public housing units by an entity other than the PHA;

(vi) For developments consisting of public housing and non-public housing units, and in lieu of the standard cooperation agreement required under § 941.201(c), the PHA shall submit a cooperation agreement with the applicable locality concerning PILOT payments, local tax exemption and local government services on behalf of the proposed public housing units. Such payments, exemption and services must be based upon a ratio reflecting the proposed bedroom mix of the public housing units as compared to the bedroom mix of the non-public housing units in the development, or as otherwise approved by HUD. For developments consisting only of public housing units, the PHA shall submit the standard cooperation agreement required under § 941.201(c);

(3) All private or public financing documents evidencing the availability of the participating party(ies)'s financing, the amount and source of financing committed to the proposal by the

participating party(ies), and the irrevocability of those funds. HUD may require in lieu of, or in addition to the submission of these documents, an opinion of the PHA's and the owner entity's counsel (or other party designated by HUD) attesting that counsel has examined the availability of the participating party(ies)'s financing, and the amount and source of financing committed to the proposal by the participating party(ies), and has determined that such financing has been irrevocably committed by the participating party(ies) for use in carrying out the proposal, and that such commitment is in the amount required under the terms of the proposal;

(4) The organizational documents of the owner entity, which shall be reviewed by HUD (together with all financing documents) to ensure that they do not provide equity investors, creditors, and any other parties, with rights that would be inconsistent with, or that could interfere with, HUD's interest in the proposed development;

(5) Evidence that all necessary actions have been taken by the PHA and other participating parties to confer such legally enforceable rights as will enable HUD to protect its investment in the property and to ensure the availability of the public housing units for low-income persons for the maximum permissible period;

(6) Evidence of control of the site by the PHA, partner, or owner entity following proposal submission, for such period of time as may be required by HUD;

(7) Evidence that construction or rehabilitation is permitted by current zoning ordinances or regulations, or evidence to indicate that needed rezoning is likely and will not delay construction of the development;

(8) In addition, the PHA shall submit the following certifications warranting that:

(i) For PHAs receiving operating assistance, that:

(A) There shall be no disposition of the public housing units without the prior written approval of HUD during and for ten years after the end of the period in which the public housing units receiving operating subsidy from the PHA; and

(B) During a 40-year period (which may be extended for 10 years after the end of the period in which the public housing units receive operating subsidy from the PHA, or as may be otherwise required by law), the public housing units shall be maintained and operated in accordance with all applicable public housing requirements (including the ACC), as those requirements may be amended from time to time;

(ii) The PHA will develop at least the same number of public housing units as were approved by HUD as part of the PHA's proposal. Where the PHA proposes to pay for more than its pro rata share of the cost of common area improvements, the PHA must also certify that:

(A) It will develop the same number of public housing units as were approved by HUD as part of the PHA's proposal, and will do so within the TDC limits; and

(B) The common area improvements will benefit all residents of the development. If the PHA's proposal provides that public housing units within a development will not be specifically designated as public housing units, but shall instead constitute a fixed percentage of the housing units and number of bedrooms developed under the proposal, the PHA must provide additional binding assurances that the percentage of public housing units and number of bedrooms, as approved by HUD, will be maintained as public housing by the owner entity, and that all of the requirements of this subpart will be satisfied with respect to those units;

(iii) It will ensure that the requirements of this subpart are binding upon the owner entity and any partner of the PHA and, to the extent determined necessary by HUD, upon any other participating party. In addition, in the event of any noncompliance with the requirements of this subpart by any participating party, the PHA agrees to take all necessary enforcement action to ensure such compliance or, alternatively, to pursue any legal or equitable remedies that HUD deems appropriate;

(iv) It will include in all agreements or contracts with the partner, owner

entity, or any other participating parties receiving development funds under this subpart, an acknowledgement that a transfer of the development funds by the PHA to the partner, the owner entity, or other participating party, shall not be deemed to be an assignment of development grant funds and that, accordingly, the partner, the owner entity or other participating party shall not succeed to any rights to benefits of the PHA under the ACC, or ACC amendment, nor shall it attain any privileges, authorities, interests, or rights in or under the ACC or ACC amendment;

(v) It will include, or cause to be included, in all its agreements or contracts with the partner, the owner entity, or other participating parties, and in all contracts with any other party involving the use of development grant funds under this subpart, a provision stating that nothing in the ACC or ACC amendments providing such funds, nor any agreement or contract between the party(ies) shall be deemed to create a relationship of third-party beneficiary, principal and agent, limited or general partnership, joint venture, or any association or relationship involving HUD;

(vi) It will ensure that the development of the public housing units will be in compliance with labor standards applicable to the development of public housing including, but not limited to, wage rates under the Davis-Bacon Act (40 U.S.C. 276a *et seq.*). If the proposed development will include public housing units that are not specifically designated units, the PHA shall ensure that such labor requirements are met with respect to the development of all units that may, at any time, be used as the public housing units;

(vii) It will take all steps necessary to ensure that, in the event of a foreclosure or other adverse action brought against the owner entity with respect to the housing units (including, but not limited to, the public housing units), the operation of the public housing units developed under this subpart shall not be adversely affected.

(9) Such additional documentation as may be required by HUD.

(b) *Subsidy layering analysis.* After the PHA submits the documentation required under paragraph (a) of this sec-

tion, HUD (or its designee) shall carry out a subsidy layering analysis pursuant to section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) (see 24 CFR part 4) to determine whether the amount of assistance being provided for the development is more than necessary to make the assisted activity feasible after taking into account the other governmental assistance.

EFFECTIVE DATE NOTE: At 61 FR 19716, May 2, 1996, §941.610 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§941.612 Disbursement of grant funds.

(a) *Front-end drawdowns.* A PHA may request front-end assistance for both scattered or non-scattered site development in accordance with the following requirements:

(1) Front-end assistance may be used to pay for materials and services related to proposal development, and may also be used to pay for costs related to the demolition of existing units on a proposed site or for preliminary development work;

(2) HUD shall determine on a case-by-case basis the maximum amount that may be drawn down by a PHA to pay for preliminary development costs, based upon a consideration of the nature and scope of activities proposed to be carried out by the PHA;

(3) Before a request for front-end assistance may be approved, the PHA must provide HUD with such information and documentation as HUD deems appropriate from the list set forth at §941.606. In determining the extent of the PHA's submissions under this paragraph (a), HUD shall ensure that it has adequate information or documentation to enable it to carry out any statutory, executive order, or other mandatory upfront reviews under this subpart. These reviews shall include, but shall not be limited to, environmental reviews (including NEPA and historic preservation), intergovernmental review, section 213 clearance (24 CFR part 791, subpart C), and subsidy layering. If, upon completing these reviews, HUD determines that the proposed development is approvable, it

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may execute with the PHA a front-end ACC amendment and the special mixed-finance amendment to the ACC (and/or grant agreement) to provide advances for the purposes, and in the amounts, approved by HUD.

(b) *Standard drawdown requirements.* HUD will review the evidentiary materials and other documents submitted pursuant to §941.610, and, upon determining that such documents are satisfactory, may approve a drawdown of development funds, consistent with the following requirements:

(1) A PHA may only draw down public housing development funds in an approved ratio to other public and private funds, in accordance with a draw schedule prepared by the PHA and approved by HUD. The PHA and its partner shall certify, in a form prescribed by HUD, prior to the initial drawdown of public housing development funds that the PHA will not draw down and the partner will not request more public housing grant funds than necessary to meet the PHA's pro rata share of the development costs. The PHA shall draw down public housing development funds only when payment is due and *after* inspection and acceptance of work covered by the draw. The PHA shall release funds to its partner promptly, normally within two working days of receipt of the funds from HUD, and only in accordance with the ratio approved by HUD. The PHA's partner shall take prompt action to distribute the funds, normally within two working days of receipt of the funds from the PHA;

(2) Each drawdown of public housing development funds constitutes a certification by the PHA that:

(i) All the representations and warranties of the PHA, as submitted in accordance with this subpart, continue to be valid, true, and in full force and effect;

(ii) The PHA is in full compliance with all of the PHA's obligations pursuant to this part which, by their terms, are applicable at the time of the drawdown of the public housing development funds, and that to the best of the PHA's knowledge, it is not in default under the ACC, as amended;

(iii) All conditions precedent to the PHA's authority to draw down the pub-

lic housing grant funds have been satisfied;

(iv) The public housing grant funds to be drawn down will be used for eligible costs actually incurred or to be incurred in accordance with the provisions of this subpart and the approved proposal; and

(v) The ratio for the draw down of funds is satisfied.

(c) The standard drawdown requirements set forth in paragraph (b) of this section (including the requirement that public housing development funds must be drawn down in an approved ratio to other public and private funds) do not apply to front-end assistance approved by HUD pursuant to paragraph (a) of this section.

§941.614 HUD monitoring and review.

HUD shall monitor and review the implementation of the PHA's approved proposal in accordance with requirements prescribed by HUD in a special mixed-finance amendment to the ACC (and/or grant agreement).

§941.616 Sanctions.

In the event the public housing units that are proposed to be developed under this subpart are not developed in accordance with the projected development schedule, the approved proposal, and all applicable Federal requirements, or if the units are not operated in accordance with applicable requirements, HUD may impose sanctions on the PHA, and/or seek legal and equitable relief, in accordance with requirements prescribed by HUD in the special mixed-finance amendment to the ACC (and/or grant agreement).

PART 943—PUBLIC HOUSING AGENCY CONSORTIA AND JOINT VENTURES

Subpart A—General

Sec.
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Subpart B—Consortia

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943.118 What is a consortium?
943.120 What programs of a PHA are included in a consortium's functions?